



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Frank O'Bannon  
Governor

Lori F. Kaplan  
Commissioner

100 North Senate Avenue  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015  
(317) 232-8603  
(800) 451-6027  
[www.state.in.us/idem](http://www.state.in.us/idem)

TO: Water Pollution Control Board

FROM: John E. Nixon, Attorney  
Office of Legal Counsel

THROUGH: Nancy M. King  
Chief, Rules and Legislation Section  
Office of Legal Counsel

SUBJECT: Recall and Adoption of LSA Document #99-261, Development of Amendments to Drinking Water Standards Rules Concerning Analytical Methods for Radionuclides, Variance and Other Requirements, and Analytical Methods for Chemical and Microbiological Contaminants

DATE: March 29, 2001

## **Factual Background**

This board final adopted the Amendments to Drinking Water Standards Rules Concerning Analytical Methods for Radionuclides, Variance and Other Requirements, and Analytical Methods for Chemical and Microbiological Contaminants on August 9, 2000. In December of 2000, those rules were submitted to the Office of the Attorney General (AG) for approval. After conversations with the AG's office, a formal request to recall the rules was submitted to the AG on January 24, 2001. A Notice of Recall was submitted to the Legislative Services Agency (LSA) and published in the *Indiana Register* on March 1, 2001.

Under IC 4-22-2-40, a rule may be recalled at any time before the rule is accepted for filing by the Secretary of State. IC 4-22-2-40(c) states that a board may reconsider its adoption action and adopt either an identical rule or a revised rule.

## **Reason for Recall**

After discussions with the AG's office, it was determined that the following clarifications should be made to the rule:

1. 327 IAC 8-2-5.2, 327 IAC 8-2-5.3, and 327 IAC 8-2-5.6 have been modified to update test methods to those that are current. This necessitated removing older test methods that were no longer to be allowed for compliance monitoring after June 1, 2001, a date that will have expired before these rules can become effective. Additionally, modifications were made to these sections concerning the proper incorporation of referenced test methods.

2. 327 IAC 8-2-8.4 has been modified with the addition of two new subsections, (c) and (d), that formerly were the language located in footnotes 1 and 9, respectively. This necessitates the renumbering of the remaining footnotes.

3. 327 IAC 8-2-5.6(b), 327 IAC 8-2-8.7, and 327 IAC 8-2-33(a) have been reworded to require that measurements for factors listed in those sections must be conducted utilizing certain methods instead of utilizing certain persons or laboratories.

4. 327 IAC 8-2-13(e)(5) has been reworded to provide more easily ascertainable standards under which the commissioner may approve alternative methods of submitting information.

5. In the time between the submission of these rules to the AG and their recall, the former Office of Water Management changed its name to the Office of Water Quality. This change has been reflected in the recalled rules as well as the correction of some zip codes attached to the mailing address of the Indiana Department of Environmental Management.

Due to the AG's concerns about the clarity of the Amendments to Drinking Water Standards Rules Concerning Analytical Methods for Radionuclides, Variance and Other Requirements, and Analytical Methods for Chemical and Microbiological Contaminants, the department is asking the board to final adopt the rules with the clarifying amendments in this packet and that will be presented at the board meeting on April 11, 2001.

### **Board Action**

After an agency recalls a rule according to IC 4-22-2-40, the board may adopt either the identical rule or a revised rule. The readopted version of the recalled rule would then follow the normal rulemaking requirements of submission to the AG for approval, to the Governor's office for signature, and to the Secretary of State for filing followed by publication as a final rule in the *Indiana Register*.

The agency requests that the board adopt amendments to the rules that were final adopted on August 9, 2000 and then adopt the rules as amended. Any questions you may have regarding the rules themselves or the process of recall and adoption can be answered at the board meeting on April 11, 2001.